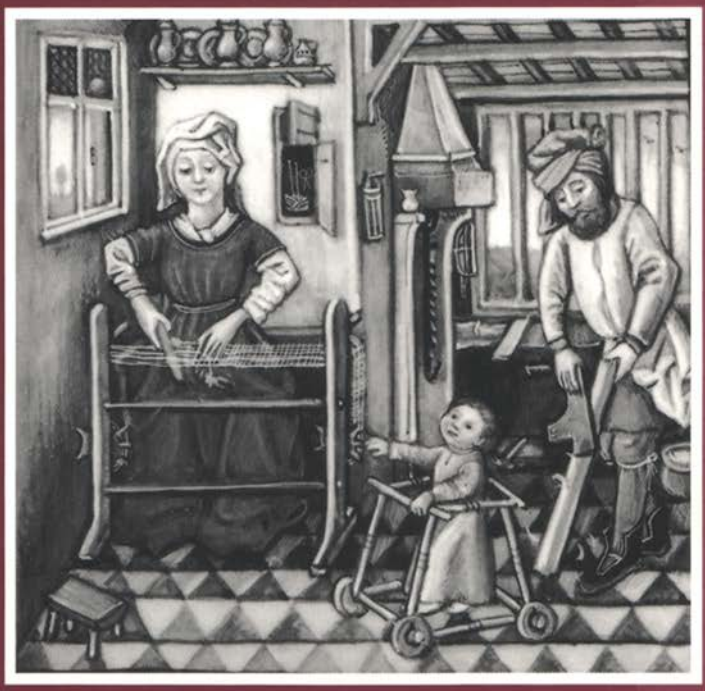
The Marital Economy in Scandinavia and Britain 1400–1900

Edited by

MARIA ÅGREN AND AMY LOUISE ERICKSON



WOMEN AND GENDER IN THE EARLY MODERN WORLD

THE MARITAL ECONOMY IN SCANDINAVIA AND BRITAIN 1400–1900

This volume explores the meaning and importance of marriage in Northern Europe, looking at differences and similarities within and between Scandinavia and the British Isles.

The point of departure is the concept of 'marital economy'. It is used to denote the economic partnership of husband and wife, which was the basis of all economic activities in the medieval and early modern period. The book employs a life-course approach, discussing in 13 different empirical studies (i) creating the partnership, (ii) managing the partnership, and (iii) dissolving the partnership. The studies discuss courtship, servants' work, elite strategies, retirement, inheritance, wills, marital disputes, decision-making, divorce, separation, and various forms of property arrangements. The introduction emphasises the marital economy as a key to understanding pre-modern economic life, and the conclusion discusses the reasons why this key has been lost to modern conceptions of economy.

Keywords: marital economy, marriage, inheritance, negotiation, work, property, comparison, medieval, early modern, England, Scotland, Norway, Denmark, Sweden, Finland, Iceland.

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The Marital Economy in Scandinavia and Britain 1400–1900

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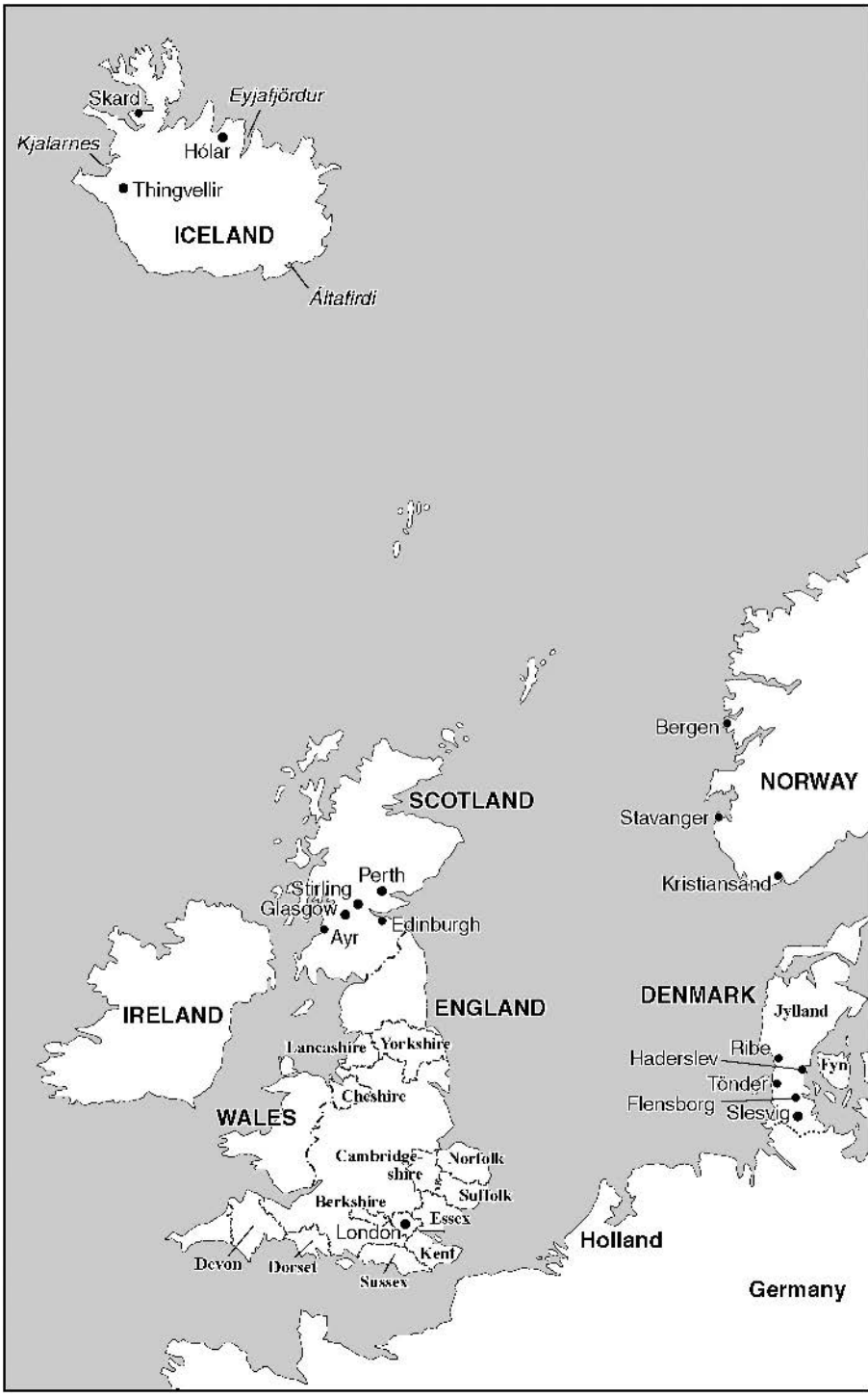
Abstract

Marriage today is our prime social and legal institution. Historically, it was also the principal economic institution. This collection of essays offers a wealth of original research into the economic, social and legal history of the marital partnership in northern Europe over a 500-year period. Erickson's introduction explores the concept of the marital economy and sketches the legal and economic background across the region. Chapters by Ågren, Gudrun Andersson, Agnes Arnórsdóttir, Inger Dübeck, Elizabeth Ewan, Rosemarie Fiebranz, Catherine Frances, Hanne Johansen, Ann-Catrin Östman, Anu Pylkkänen, Hilde Sandvik and Jane Whittle are organized according to the three economic stages of the marital life-cycle: Forming the Partnership; Managing the Partnership; and Dissolving the Partnership. In conclusion, Michael Roberts explores how the historical development of modern economic theory has removed marriage from its central position at the heart of the economy.

Note on dates

In source references all dates are rendered as 'day.month.year', regardless of their original format. Thus April 1st, 1726 is written 01.04.1726, following the standard British order but differing from both Scandinavian and North American practice.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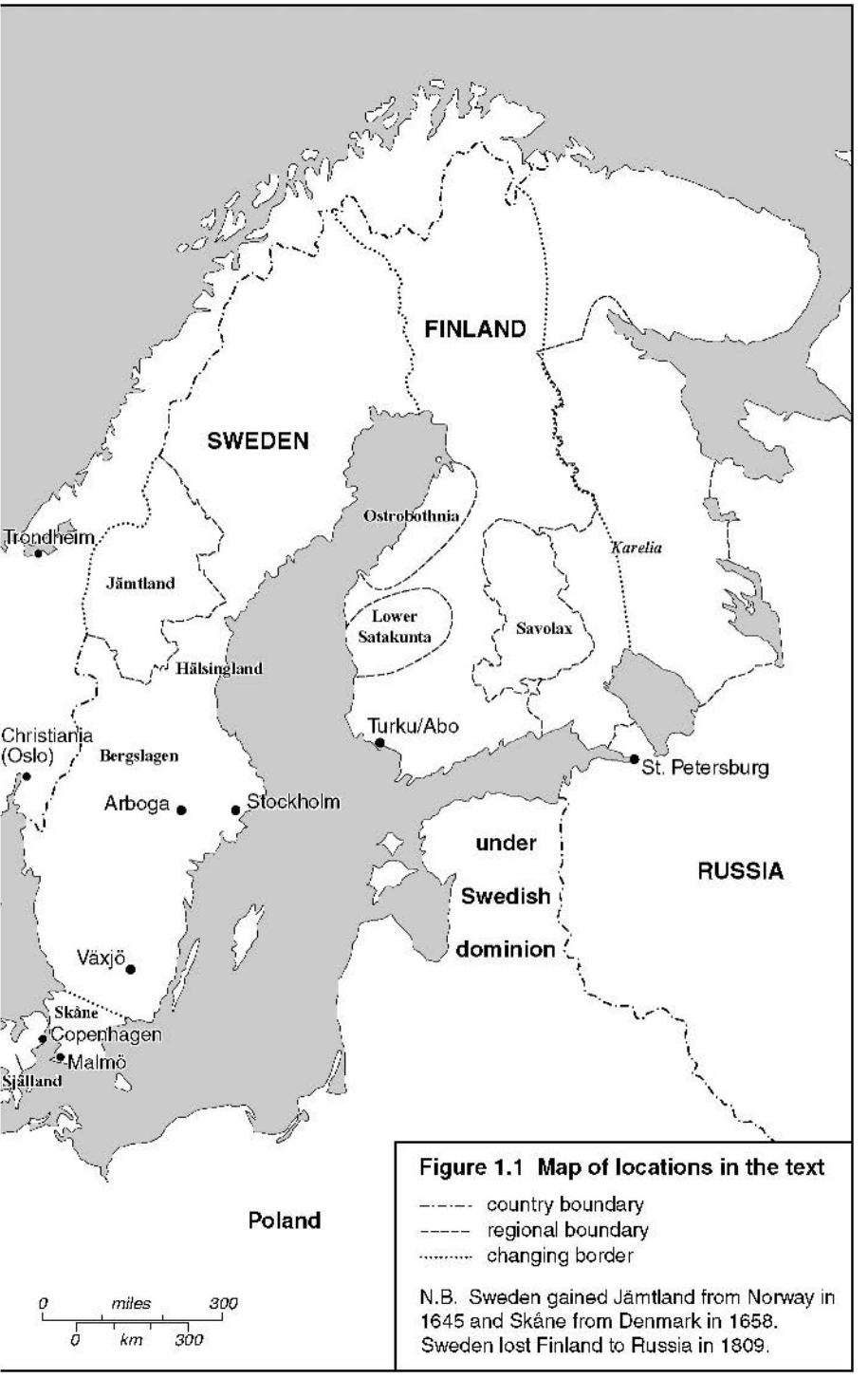

Figure 1.1 Map of locations in the text

---- country boundary
----- regional boundary
..... changing border

N.B. Sweden gained Jämtland from Norway in 1645 and Skåne from Denmark in 1658. Sweden lost Finland to Russia in 1809.

INTRODUCTION

CHAPTER 1

The marital economy in comparative perspective

Amy Louise Erickson

We are accustomed to thinking of marriage as the core of social life. But marriage is also the heart of economic life. The marital partnership is the most fundamental economic relationship because, over time, it is the one on which all other economic activities depend. Historically, the vast majority of households were headed by a married couple, or the surviving half of a couple. And historically, the household was responsible not only for reproduction, but also for production, distribution and consumption. Husband and wife, as the joint heads of household, both had responsibility for these processes. The marriage of two people was the first step in creating an 'oeconomy', which in the early modern period referred specifically to the household. Early modern 'oeconomy' depended overwhelmingly on the industry of husband and wife, and on their capacity to cooperate.

An economy is a system of producing, distributing and consuming wealth, whether in a household or in a nation. Historians commonly represent the 'household economy' as the most fundamental level of economic activity.[1] But it was the marriage partnership at the heart of the household which was the most fundamental level of economic activity, because every marriage had to be established, maintained and dissolved by continual negotiation between the spouses and their families and friends. We call these negotiations over the lifetime of a marriage the marital economy.

In the first stage, a property transfer is negotiated in order to set up a new household. Today the process of getting married involves little financial negotiation because setting up a new household in a wage economy with a wide range of financial and credit institutions is easy. But in early modern Europe, with a limited wage economy and heavy dependence on inherited wealth at all social levels, a married couple needed wealth and skills to survive. Throughout the early modern period, and indeed into the twentieth century, love was desirable in marriage, but labour and property were essential. Once married, the partners engaged in continuous negotiation over issues of production, distribution and consumption for the best support of the household. Of course, negotiation might appear as a frown, as nagging, as a full verbal or physical row, or as tacit consent. Formal consultation was rarely undertaken as the joint heads of household distributed tasks, responsibilities and authority between themselves and among household members, but decisions were based on many different prescriptions or scripts. Upon the death of one partner, or upon the marriage of their children, the transmission

of property to the surviving partner and to the next generation had to be negotiated. And the children's inheritance created the next generation's marriages.

To call marriage an economic partnership is not to say that it was egalitarian. There were strict distinctions between the types of property that sons and daughters inherited, between the property that husbands and wives controlled, and between men's work and women's work. These distinctions almost invariably advantaged men and disadvantaged women. But the fact that both sexes worked and both brought property to marriage made it self-evidently an economic partnership.

The marital economy is most visible in societies where production is essentially household based and dependent on agriculture, proto-industry, and local and regional trade, as in the early modern societies we examine here. It was perfectly evident to these societies that the economy was rooted in the household, that the household was rooted in the married couple, and that both spouses contributed economically.

Early modern states explicitly acknowledged their dependence on the marital partnership. Heads of households were depicted as miniature kings, and kings as heads of household writ large. The church held spouses personally responsible for upholding divine order.[2] Laws regulated the shaping of marriage, the economic authority of married couples, and their children's inheritance. Kin, neighbours, the church and the state all had an interest in the marital economy staying both solvent and peaceable.

Most of the institutional framework of early modern economic life took the shape of marriage and inheritance laws. In a society dependent on households, the flows of capital can only be grasped by considering the rules regulating inheritance and marital property. But in spite of the recent popularity of institutional economics, few historians have addressed the interrelationship between marriage and larger economic patterns.[3]

Aspects of the marital economy itself have received more attention and several studies in different countries have been published in recent years.[4] But these inevitably focus on the particularities of national or local economic and legal conditions, rather than on marriage as an economic process. In this volume, cross-cultural comparison allows identification of what is similar and what is different in the marital economy across an entire region, throws light on local and national research, and provides a context for further research. Being able to identify what is a common pattern and what is culturally distinctive is very helpful, and often overlooked.

For example, Norwegian married women's ability to trade, borrow and administer property *de facto*, despite strict limitations *de jure*, is commonly explained by the fact that men were often away from home, in the military, in fishing or in trade. But English and Scottish married women show the same trading and borrowing patterns, in the face of the same legal restrictions, without the absence of any significant number of men. The comparison

suggests that the presence or absence of husbands is unrelated to wives' need to conduct business. Similarly, in England, the existence of contracts for maintenance in old age has been used as evidence of an individualistic society which could not be expected to look after its elderly without written contracts. In Sweden, exactly the same sort of maintenance contract is used as evidence of familial solidarity. British historiography, and particularly English, likes to emphasise individualism, Nordic historiography emphasises solidarity.

These studies come from the countries which are now England, Scotland, Wales, Sweden, Finland, Denmark, Norway and Iceland. This part of the world had a long history of interaction – in trade, warfare, conquest, land transfer and marriage – from at least the fourth century. Parts of Scotland were under Norse control until the later middle ages. Sweden colonised Finland in the twelfth century. Norway colonised Iceland in the thirteenth century. Denmark and Norway shared a common (Danish) monarch from the fourteenth century, and they joined with Sweden in the Kalmar Union throughout the fifteenth century. After centuries of uneasy relations, England gradually annexed Scotland over the seventeenth century, although the legal systems remained distinct. Hence for most of the period at issue here, at least 1500–1800, we refer to Denmark-Norway, which includes Iceland, to Sweden-Finland, and to England-Scotland (which includes Wales). In the nineteenth century, Norway separated from Denmark (1814), but joined union with Sweden, which had lost Finland (1809). Finland and Iceland became independent states in the twentieth century.

England-Scotland had close to twice the population of the Nordic countries, in an area approximately one third the size. Very roughly, at the time of the Reformation, Denmark-Norway and Sweden-Finland each had one million people, Scotland had half a million and England-Wales had 2.5–3 million. By 1700, the population everywhere had doubled. In general, in the sixteenth century between 5 and 10 per cent of the population lived in towns or cities of 2000 people or more. The urban population grew rapidly in the seventeenth century in Denmark, Sweden and England, where London alone held 10 per cent of the population by 1700, with half a million people. At the same time, Stockholm and Copenhagen each had perhaps 60 000 people – more than the entire population of Iceland. Norway and Scotland urbanised in the eighteenth century, so that by 1800, 10 per cent of Norwegians lived in towns.

Geographical comparison requires flexibility in chronological designation. Britain cannot be described as 'early modern' after about 1750, whereas the Nordic countries are 'early modern' until the mid-nineteenth century, in terms of the predominance of agriculture, the prevalence of cash, and relative urbanisation and industrialisation. Wage labour was more significant in England in 1700 than in Sweden in 1900. In England-Scotland wages, rents and poor relief were all more likely to be paid in cash. In the Nordic countries these payments were much more likely to be in kind than in cash. There were also more active markets in land and labour in England-Scotland. However, the

cash-poor Nordic societies still calculated inheritance portions and maintenance rates as monetary debts, reflecting a commercialised economy. In all countries, records of cash payments – whether for wages, inheritance or relief – may have referred to in-principle or deferred payments, indicating an economy based as much on debt as on cash.

Legally, marital matters generally came under the jurisdiction of ecclesiastical courts, while property was a matter for secular courts. In practice, the distinction between marital and property matters was not always clear-cut. The impact of the Protestant Reformation on courts varied. In Sweden-Finland, where the Reformation of 1527 was total, the ecclesiastical courts survived only in cooperation with secular courts.[5] In Denmark-Norway, after the Reformation of 1536, the ecclesiastical courts became mixed, with a combination of secular and clerical judges. In England and Scotland, the partial Reformations in 1538 and 1560, respectively, had little effect on court systems. All marital business and much inheritance business remained within the realm of the ecclesiastical courts, with the exception of divorce in Scotland, which was allocated to secular courts. The later seventeenth and early eighteenth centuries saw increasing centralisation of authority and varying degrees of legal codification in all countries.[6]

Part I: Forming the partnership

All the countries examined here required the parish to register the fact of a marriage, along with the facts of baptism and death, from the later sixteenth century. (Adherence to this requirement varied greatly.) But the *process* of establishing a marriage is much less visible. Marriage was created, according to canon law, only by the consent of the woman and man involved.[7] Parental consent and a priest were desirable, but not legally required. A simple statement of marriage in the present tense, or a promise plus consummation, constituted legal marriage – irregular, and perhaps punishable by fines and penance, but nevertheless valid. The Protestant Reformation did not immediately affect this formulation.

The process of courtship did not inexorably lead to marriage. Most curtailed courtships were broken off by mutual agreement and no record survives, but the failed courtships which seriously disappointed one party and which were taken to the courts as 'spousal' cases bring the economic functions of marriage into sharp focus. In the cultural assumption that sexual intercourse was a constituent of valid marriage, women were placed at a serious economic disadvantage, since in the event of pregnancy it was they who bore the costs. Prenuptial sexual relations were not unusual: perhaps a tenth of Scottish brides, approximately one third of English brides, and nearly half of Norwegian brides were pregnant, although the proportion varied considerably by region.[8] It was the unfortunate few who did not go through the marriage

ceremony prior to childbirth and ended up in court instead.

The Norwegian courts held what may be the most liberal interpretation of the marriage contract in the sixteenth century: that sexual intercourse in and of itself constituted a promise of marriage. Hanne Marie Johansen in Chapter 2 finds that the great majority of female claimants in Norwegian spousal cases, almost all of whom were pregnant, were awarded financial compensation – to maintain the child, but also to improve their marriage prospects. The courts' attitude changed over the seventeenth century, until in the eighteenth century a seduced woman had to produce a written promise of marriage in order to complain in court. As a result, spousal cases disappeared completely. In English courts, sexual intercourse created merely an ethical obligation; a legally binding marriage required other evidence. Catherine Frances in Chapter 3 uses spousal cases from northwest England, in which the testimony elaborates the expected process of courtship, involving family and friends both in the initial processes of exchanging letters and gifts, and in settling the property to be contributed on both sides.

Outside of the courts, the actual steps taken to arrange the economic aspects of marriage are generally visible only among the elite. Among the other 95 per cent of the population, no record of premarital negotiation survives except by accident. So there is very little research on the actual portions brought to marriage by the bride and the groom. Historians must assume that the relative value of brides' and grooms' portions in any location was based on, first, the amount of daughters' and sons' inheritance, and second, the level of wages which young people might be expected to earn as servants and save towards marriage.

The amount of inheritance varied with the laws of the country. In Sweden-Finland it also depended on whether the property was rural or urban, and in England-Scotland on whether a parent made a will. Table 1.1 outlines the amount of property which children were entitled to inherit from their parents in each country. The word 'entitled' is used advisedly. Inheritance was legally prescribed in Nordic countries to a much greater degree than in England-Scotland. Nordic children were entitled to their inheritance. Property that their own parents had inherited had to be divided among the children by law, unless the children consented otherwise. Property which parents had acquired through their own labour could be freely distributed, but where it was not distributed in a parent's lifetime or by will, then it followed the descent for inherited property. Nordic parents had to give a legal reason for disinheriting a child.

At the other end of the scale, English children could be 'cut off with a shilling', having no legal entitlement to inheritance at all. All property could be alienated by the possessor during his lifetime, or from 1540 by means of a will, so children's 'right' of inheritance applied only to the property possessed by the parent at the time of death. From 1700, even this limited entitlement applied only in the absence of a will. English parents (usually fathers) had near

total discretion over the distribution of their property. However, all of the rules could be modified by private contracts to the contrary. Scotland fell between England and the Nordic countries: it was possible, although difficult, to disinherit an heir, and it could not be done by a will on the deathbed. Entails or other settlements in either Scotland or England could prevent the alienation of property from an heir (which here means the eldest son, or daughters in his absence), or equally could alienate property from an heir who happened to be female.[9]

Within the Nordic countries, sons' and daughters' rights to inheritance varied dramatically. The tiny minority of the Swedish-Finnish population which was urban enjoyed equal inheritance of daughters and sons from the fourteenth century. But in the great majority of Sweden-Finland and Denmark-Norway, daughters inherited only half of sons' shares in the parental estate. In all countries, portions for both daughters/brides and sons/grooms could technically consist of movables, cash or land, but in practice it was unusual for women to get land, except in Iceland.

Gudrun Andersson in Chapter 4 uses inventories from a dozen elite families in one Swedish town in the later seventeenth and eighteenth centuries to assess the inheritance of their sons and daughters. It was theoretically possible to

Table 1.1 Children's rights to inherit parents' separate/inherited property

Sweden-Finland *Urban*	Daughters and sons take equal shares
Sweden-Finland *Rural*	Daughters take a half share, sons a whole share *until 1845;* equal shares *after 1845*
Denmark-Norway	Daughters take a half share, sons a whole share *until 1857;* equal shares *after 1857*
England-Scotland	• Movable property: daughters and sons take equal shares if no will to contrary • Real property*: *if* no other disposition during parents' lifetime, to eldest son, or if no son then all daughters jointly

* Scotland distinguished inherited land, which was bound by inheritance, from acquired land, which was freely alienable. Real property in England meant freehold and copyhold land. Most copyhold descended by this system of primogeniture; some manors practised ultimogeniture, some divided equally between sons, and a few equally between all children.

Note: Children were always preferred as heirs, then usually siblings, nieces/nephews, and so forth.

circumvent equal division, but it appears this rarely occurred. The amount of property given to siblings varied considerably over their parents' lifetime, but the shares were equalised upon their parents' death. If urban daughters and sons inherited equivalent amounts, it can be assumed that they married partners with approximately equivalent fortunes.

In the case of the countryside, where sons legally inherited twice the amount that daughters inherited, did brides bring approximately half the amount to marriage that grooms brought? Anu Pylkkänen in Chapter 5 compares three rural areas of Finland and finds that women seldom, if ever, got even their legal half-share in inheritance. Although women's labour and maintenance responsibilities were of immense value, and ascribed great cultural significance, these contributions were devalued when dividing family resources. Only in the wealthiest of the three areas studied did daughters' portions even approach the legal norm. So rural Finnish brides must generally have brought even less than half the amount that their grooms brought.

Within the single country of Sweden-Finland, adherence to legal inheritance diverged in the different economies of an urban elite and poor rural areas. Was the equal division of resources a luxury for the better off, possible for urban elites and wealthier peasants but beyond the reach of those just managing to maintain subsistence in agriculture? This possibility is belied by the English sources, which are much less complete, but which do suggest that the middling sort divided their property more equally among sons and daughters than either wealthier or poorer people.[10]

In the case of the Swedish elite and the rural Finns, inherited wealth constituted almost all of the property taken into marriage. While the institution of adolescent service was widespread throughout the Nordic countries and England-Scotland, only in England and to a lesser extent Scotland was cash a significant component of servants' wages. Jane Whittle in Chapter 6 examines the wealth and the skills that young English women could accumulate as servants. Women's cash wages were, on average, only half those paid to men (throughout the region), but nevertheless Whittle finds that a couple's saved wages could furnish and stock a house and smallholding. The skills acquired in service also added significantly to the prosperity of the future marital economy.

In other countries and for higher social levels, the bulk of the marital economy was established by inherited property. If parents were still alive when a marriage was contracted, then the marriage portion was treated as an advance on inheritance. The whole purpose of inheritance was the establishment of the next marital economy, or failing that, a living for a lone child. Despite marked legal variations, actual inheritance practice converged. The intention of property strategies everywhere was to hold the farm or manor in the family for more than one generation, while at the same time providing for all children. So the Nordic practice of division among all siblings was modified in practice where a single farm or town house could not be split up: the son who got the

dwelling bought out his siblings' shares in the property over a period of time. Thus inheritance of land in the Nordic countries largely followed primogeniture in practice, although the principle was never written in law. On the other hand, in England the legal principle of primogeniture was often modified by the same practice of requiring the heir to pay cash bequests to his siblings out of his land.

The actual importance of land inheritance is related to types of property in each country. The large proportion of freeholding peasants in Iceland, Norway and Sweden-Finland meant that inherited land was much more important than in Denmark, where few families owned their own land.[11] Britain by the seventeenth century had a large rental market in land, and leases did not descend by primogeniture. So the details of landholding created a more complex pattern of property distribution than a legal comparison suggests.

The Nordic and British countries shared what is referred to as the northwest European pattern of marriage and household formation: adolescent service; age at first marriage of women in their mid to late twenties, to men who were the same age or slightly older; a relatively high proportion of women (approximately 10 per cent) never marrying; high bridal pregnancy and low illegitimacy; and marriage usually meant setting up a new household. The extent of these practices varied. For example, the fixed nature of farms in the Nordic countries meant that young couples more often moved in with retired parents than in England, where a more extensive land market enabled the establishment of new households.

Part II: Managing the partnership

When comparing the inheritance of children in Table 1.1, it is important to bear in mind differences in the constitution of the marital estate. In the Nordic countries, as throughout continental Europe, the marital estate comprised three distinct parts: the husband's inherited property; the wife's inherited property; and the common property they acquired during marriage. He did not own her inherited (or lineal) property and she did not own his. The spouses' respective rights in the common (or joint) property varied by country, as sketched in Table 1.2. The exception to this ordering of the marital estate was England, which had no legal concept of lineal property as such. The closest it came was real property. Should a woman happen to own or inherit real property (freehold or copyhold land), a relatively unusual situation, then she retained that ownership throughout marriage. This was the last vestige in England of the idea of separate property in marriage, but it was not lineal because it could be freely disposed of. All the rest of a wife's property became her husband's upon marriage. Whereas in the rest of Europe the husband *managed* all of the marital estate, in Britain he enjoyed sole *ownership* of the marital estate, always excepting his wife's freehold/copyhold land, which he managed. For

any other property to remain in the wife's or her kin's control, it had to be preserved by a contract specific to that marriage.

So, with reference to children's inheritance in Table 1.1, in the Nordic countries property was redistributed upon the death of each parent because each had property to distribute. In Britain, redistribution usually only occurred at the death of each parent if the father predeceased the mother (say in 50 per cent of cases). If the mother predeceased the father, no redistribution occurred except in the extremely unusual event that she had made a will, since he either owned or had a life right in all her property (see Tables 1.2 and 1.3).

The distinctions in marital property regimes are reflected in naming practices. Only in England did a woman take her husband's name upon marriage. In the Nordic countries, as in France,[12] she kept her own father's name throughout her life. In Scotland too a woman normally retained her father's name, but sometimes added or substituted her husband's name, a practice that increased over time. In Denmark-Norway and Sweden-Finland

Table 1.2 Administration of the marital estate

Sweden-Finland *Urban*	• Each spouse retains lineal property
	• Spouses have equal shares of joint property
	• Husband manages all property
Sweden-Finland *Rural*	• Each spouse retains lineal property
	• Wife has 1/3, husband 2/3 of joint property *until 1845*; equal shares *after 1845*
	• Husband manages all property
Denmark-Norway	• Each spouse retains lineal property *until 1547*; lineal land only *from 1547 to 1683*
	• No lineal property *from 1683* without a special grant
	• Spouses have equal shares of joint property
	• Husband manages all property
England-Scotland	Husband acquires all wife's property in the absence of private arrangements to the contrary, except her freehold/copyhold land, which he manages, and her paraphernalia

Table 1.3 Spousal rights in the marital estate upon widowhood

	Husband retains on widowhood	*Wife retains on widowhood*
Sweden-Finland *Urban*	1/2 of joint property	1/2 of joint property
Sweden-Finland *Rural*	2/3 of joint property *until 1845* 1/2 of joint property *after 1845*	1/3 of joint property *until 1845* 1/2 of joint property *after 1845* Morning gift and *födel* [+]
Denmark	1/2 of joint property	1/2 of joint property Marriage portion Betrothal gifts* and morning gift[+]
Norway	2/3 of joint property	1/3 of joint property Marriage portion Betrothal gifts* and morning gift[+]
Scotland	All movables Life right in her inherited property *if* child born alive	Life right in 1/3 of his real property Jointly held property in her name Movable property: if children 1/3; if childless 1/2
England	All movables Life right in her freehold *if* child born alive	Life right in 1/3 of his freehold/copyhold Jointure, if any,[#] and Paraphernalia* Movable property: if children 1/3; if childless, all *until 1670*; half *after 1670* No right to movables *after 1700*, but if no will, as above

+ Morning gifts could be substantial gifts of land, used chiefly by the nobility.
* Betrothal gifts were normally trinkets, perhaps comparable to the English-Scottish law's formulation of 'paraphernalia' – personal clothing and jewellery – which was very rarely mentioned in legal documents. There are no studies of how these legal concepts actually worked. (For an anthropological view, see Kjellman, 1979.)
# Jointure was optional, an annuity often used in lieu of the right to land.

Note: Provisions in England-Scotland could all be varied by pre-nuptial contract (England), pre- or post-nuptial contract (Scotland) or by will. Apparently uniquely, in Scotland if one spouse died within a year and a day of marriage, and there were no children, then the property returned to the families who had contributed it.

women started to take their husbands' names around 1800; by around 1900 it was virtually universal. In Sweden it was made compulsory in the 1920s. In England, and later Scotland, although clearly a reflection of the husband's total control of the marital estate, taking the husband's surname was never required, only customary. Icelandic practice has always maintained separate surnames within marriage, each partner retaining the name of their own father.

Because of the extraordinarily strong rights that English and to a lesser extent Scottish law gave to husbands, marriage contracts played an important role in securing the lineal needs of the wife's family and of the wife herself in the event of marital breakdown. In Nordic countries marriage contracts might specify, for the sake of clarity and posterity, the contents of each spouse's inherited shares, since these were legally required to be distributed to the children of the union. But in Scotland and England *all* legal arrangements could be modified by marriage contracts. Scotland allowed both ante-nuptial and post-nuptial contracts; in England they had to be ante-nuptial. Little is known about these contracts, which could allow a woman to keep control of her own property during marriage, give her the right to make contracts in her own name or write a will, or completely restructure the amount to which each spouse was entitled upon widowhood.[13] Specific legal forms developed to facilitate these arrangements, such as the conjunct infeftment in Scotland (see Elizabeth Ewan in Chapter 12) or the jointure in England. Instead of changing the law, convoluted methods of getting around it were developed. This contributed significantly to the archive of court cases. England's marked litigiousness is often attributed to an individualistic ethos. But by comparison with other countries, it appears that the volume of litigation may be more directly due to the fact that the English had more to litigate *about* because their legal system was so unclear. The fact that the system was chaotic may itself be attributable to an individualist ethos, but that is a separate issue. In Sweden too, the number of legal disputes related to debts and land ownership and inheritance grew significantly in the eighteenth century, and this may well have been connected with complicated rules, set up at the time to save the old system whereby inherited land was subject to special rules.

As with the case of inheritance laws, disparity in the legal constitution of the marital estate was probably not very visible in actual practice. In neither the British nor the Nordic systems could married women make contracts or sue without their husbands' consent. Nevertheless, courts throughout northern Europe universally accepted the need for a wife to contract informally for the provision of daily household requirements, and normally acknowledged married women in business matters.

For example, in Norway, Hilde Sandvik in Chapter 7 finds that in spite of laws which technically restricted their right to contract and buy goods on credit, married women frequently bought wares on credit, not only for farm use but also for trade, and for larger amounts than the law allowed. Although from 1687 Danish law no longer required a wife's consent to her husband's

sale of her inherited land, Norwegian land registers continued to record the wife's consent in contracts. Perhaps in Norway, where one quarter of couples lived on farms inherited by the wife, a wife's public consent to the alienation of her lands remained important, for the security of not only wives, but purchasers. In Denmark, where inherited land was relatively insignificant, it may have mattered less.

Danish research focuses on legal status, and there is little research in court records as yet. Inger Dübeck in Chapter 8 reviews the transition from separate to community property in Danish marriage law over the sixteenth and seventeenth centuries. The extension of community property moved it into the husband's control, but the wife was still a 'passive' owner of her half. The early nineteenth century saw further restrictions on Danish married women's legal capacity until, in response to the first women's movement of the mid-nineteenth century, inheritance was equalised and married women gained some control over income from a separate business, although the husband still managed all property until 1925.

Whether property was technically joint or separate, we have to assume that most couples managed the assets they had for their mutual benefit, subject to continuing negotiations over labour and power. These negotiations are extremely difficult to glimpse historically, but the next two chapters introduce source material from Sweden and Finland to get a glimpse of the gendered labour relations of the marital economy.[14]

In English and Scottish church courts, marital disputes over labour matters were rare, perhaps because marital disharmony was no ground for complaint in ecclesiastical law.[15] The Swedish church took a more interventionist approach: couples could be cited before the parish council for failing to uphold 'religious order and good morals', and for 'defective diligence' in their household management. Rosemarie Fiebranz in Chapter 9 looks at one northern Swedish community in the period 1750–1850. The minutes of 30 marital cases make clear that the gender division of labour, as well as economic decision-making and authority within the household, were crucial issues in marital disagreements.

These stories of marital conflict were told by the clergyman who took notes on the hearings. The only means of hearing couples talk in their own voices is through personal letters or diaries. Very few of these survive from before the nineteenth century, and the number that deal with marriage and work and money is even smaller.[16] In the later nineteenth century, increasing literacy and large-scale emigration from the Nordic countries to North America produced many more letters. Ann-Catrin Östman in Chapter 10 analyses the letters written between a single couple: Johan, in America, and Hanna, who stayed with their two children at her father-in-law's farm in Ostrobothnia. Issues of work and money, marital and household relations, permeate the correspondence. Hanna shared her father-in-law's traditional view that women should undertake heavy field labour, but also her husband's 'new world' view that their personal relationship was paramount. The relationship between labour and love was

different for each of these three people, but for both men, their perception of their masculinity depended on Hanna's work. The sustained conversation between Hanna and Johan across the Atlantic Ocean may cast some light on the daily negotiations of other, now silent, couples in earlier periods.

Part III: Dissolving the partnership

In some cases the daily negotiations of marriage broke down irretrievably, and the partnership had to be dissolved. The most common forms of ending a marriage with both partners still living were abandonment, among the poor, and privately agreed separation, among those with the means to support two households. Formal divorce was also possible in all the countries in this region after the Reformation, although distinctly easier in the thoroughly Lutheran Nordic countries and in Scotland than in England.[17]

In Scotland divorce was obtained by a much wider range of society than in England, where the ecclesiastical courts still only sanctioned separation, and the only possibility of full divorce was a private bill in parliament from the end of the seventeenth century. In either case, irreconcilable personal or economic disagreements did not constitute grounds for divorce. Even a husband's squandering of the marital estate was no grounds for a wife's complaint, since the property was in fact his.

An abandoned wife in England – and perhaps 10 per cent of women were deserted at any one time – was allowed to consider herself widowed after seven years, at least in theory. In Scotland she could approach the court for divorce after four years' absence, and in Denmark-Norway after three years, or after seven if her husband had travelled away on work. This allowed her the opportunity to remarry. Deserted wives with no opportunity to remarry had little reason to petition for divorce. Hanne Johansen in Chapter 11 shows that abandonment was the most common reason for Norwegian women to seek divorce. The second most common reason cited was adultery. In the Nordic countries, adultery on the part of either partner was grounds for divorce, and more than half of the Norwegian petitions for divorce on grounds of adultery were brought by women. The same was true of Scotland. But in England a wife could sue for divorce on grounds of her husband's adultery only if he combined it with systematic cruelty.

Divorce was a solution to marital trouble sought by very few people. The most common end to a marriage was the death of one spouse. Provisions for the maintenance of the surviving spouse, and the passing on of the marital estate to the next generation, are the best studied phase of the marital economy since, unlike the earlier phases, sources are relatively plentiful. For England in particular, there is a large body of work on provisions for widows' welfare and the inheritance of children. In comparative perspective, it would appear that the records abound precisely because of the peculiar legal vulnerability of

English widows and children. England's very early system of poor relief also takes on new meaning in a Nordic comparison. The sixteenth-century poor relief system is often taken as a sign of England's individualism or modernity, lacking 'older' structures of kinship support. Given that poor relief records in England show that the system supported primarily women, mostly widows and abandoned wives, we should consider the possibility that poor relief developed at least partly as a consequence of England's extraordinary marital property laws. An elaborated poor relief system, outside the church, did not develop in Sweden until the eighteenth century, and remained rudimentary in many places long thereafter. Certainly poor women existed in the Nordic countries, but they were not at the same risk of destitution as they were in England *because* of the arrangement of the marital estate.

Table 1.3 lays out the legal rights of the surviving spouse in the marital estate across the region. The division of the estate took place generally after tax and debts were paid. For the Nordic countries, spousal rights in joint property upon widowhood mirror their respective portions of the marital estate. But for England, the wife's rights on her husband's death are qualified: a jointure, or annuity, was merely optional, not required; and by 1700 (and much earlier in large parts of the country) she had no automatic right to any movable property whatever. If her husband had not made a will to the contrary, then she was granted one third or one half of the residual movable estate. Despite almost no legal entitlement, most English men's wills made their wives the principal beneficiary, as one would expect of a marital partnership.

Whereas early modern English research relies heavily on wills, provisions for the dissolution of the marital economy in late medieval Scotland are found in the registers of public notaries. Among the countries examined in this collection, the notary played an important role only in Scotland and Denmark. Elizabeth Ewan in Chapter 12 examines the provisions for widowhood made by the Scottish urban elite. Arrangements could be made at any time during marriage: in the marriage contract itself, on the occasion of one partner's inheritance, on the marriage of a child, on the husband's departure overseas or to war, or when death seemed imminent. The use of conjunct fee, giving joint possession, became increasingly common from the fifteenth century. This was most important for widows, since the older right to one third of their husbands' lands could be difficult to extract and enforce. As in England, it was common for a widow to be executor and principal beneficiary of her husband's will. The language of the Scottish bequests is similar to that found in Swedish wills, expressly recognising the mutual effort necessary to the success of the marital partnership and stressing the importance of mutual labour and mutual love in the marital bond. By contrast, the specific mention of labour is extremely rare in English men's wills. This difference may be attributable to the fact that Swedish and Scottish law made a distinction between inherited and acquired land; only the latter could be freely disposed of. Emphasising mutual efforts was a way of saying that the land was not inherited (see Table 1.1).